

### **Remarks**

Claims 7, 8, and 17 have been cancelled without prejudice or disclaimer.

#### **Substance of the Interview**

Applicants appreciate the Examiner's courtesy of granting a telephonic interview which was conducted on March 10, 2005 between Examiner Kurt Rowan and the Applicants' representative Taras P. Bemko. In particular, Applicants discussed how the Schaefer and Danielson references were different from the Applicants' device and how the Applicants' device was distinguishable over these prior art hooks. During the interview, the Examiner stated that the independent claim should more directly recite the geometry of the Applicants' device in particularly reciting how the offset, being substantially perpendicular to the shank, changes the relative position of the first and second shank with respect to each other, after the hook is cocked, and the spring tensioner or coil.

#### **Claim Rejections – 35USC § 112**

Claim 20 stands rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that the use of the term "similar" in line 4, of the claim, is indefinite and the limitation "the other side of the curved end" in line 11 of the claim has insufficient antecedent basis. Applicants have noted the Examiner's comments and have amended Claim 20 to overcome these rejections. Applicants respectfully submit that the rejection of Claim 20, under 35 U.S.C 112, second paragraph, has been overcome.

#### **Claim Rejections – 35USC § 103**

Claims 1-15 and 17-20 stand rejected under 35 U.S. 103(a) as being unpatentable over Danielson (U.S. Patent 1,638,923) in view of Schaefer (U.S. Patent 2,748,521). This rejection

is respectfully traversed.

The Examiner states that Danielson teaches an integral catch 6. Applicants respectfully pointed out, in their Response/Amendment, filed November 29, 2004, that Danielson “further requires a post or pin 7 which **is not** a part of the hook but is a part of a **separate** “inanimate life-like fish bait 1”. The post or pin 7 is required to hold both hooks (and both integral catches 6) in the crossed position. Thus, a pull or setting action, by the fish swimming away or the fisherman setting the hook is required. There is **no automatic set** with Danielson.”

In reply to the Applicants’ Response/Amendment, filed November 29, 2004, the Examiner stated that because Applicants employ the open-ended term “comprising” there is no preclusion of having another catch 7. Applicants have amended the claims to show that the Applicants’ catch is the offset in the shank and as such does not include another catch separate from the single wire.

The Examiner also alleged that “Danielson employs what has been referred to as an automatic set since any set can be automatic in that it is done by a user without thinking.” Applicants respectfully disagree with the Examiner’s simplification of the fishing process. Quite to the contrary, if a user does not think about setting a hook when using a conventional fishing hook, the user will seldom catch any fish. The setting of the hook is very critical during fishing. If a hook sets too soon or too late, it will not properly pierce the fish’s mouth resulting in a missed catch and possible needless injury to the fish. The Applicants’ hook distinguishes itself from the prior art hooks in at least one manner with its automatic set. There is no pulling on the fishing line, by the fish or the fisherperson, required to set the Applicants’ hook. The setting is done by the forces exerted by the fish’s mouth.

The Examiner, in the instant Office Action, states that it would be obvious to provide

Danielson with a release as shown by Schaefer since one merely mechanical equivalent release is being substituted for another and the function is the same. Applicants respectfully disagree and point out that there is absolutely no motivation provided in either Schaefer or Danielson to combine their teachings. Danielson teaches a single wire hook that relies on an outside catch (7) to maintain the device cocked and thus preventing the device from being automatically set. Schaefer teaches a multi-part hook assembly that cannot possibly be made from a single wire. The release mechanism of Schaefer cannot be physically incorporated into the Danielson device. The leaf spring (7) of Schaefer must be separate from the shanks (1). To set and/or release the Schaefer device requires that the shanks (1) move within the leaf spring (7) or more likely that the leaf spring (7) must move into or out of the notched areas (10). Thus in order for Danielson to employ the release of Schaefer, the Danielson coil spring (9) would have to be replaced by a separate leaf spring or at least be separated from the shanks (2).

The Examiner also states that “Danielson shows upon the application of two generally opposing forces such as a fish biting the lure from the top and the bottom and consequently the hook, that the hook will be pulled forward by the force on the line as a fisherperson feels the bite which will release the hooks from the lure as shown in Fig. 2. Applicants respectfully bring to the Examiner’s attention that per Applicants’ independent Claims 1, 15, and 20, Applicants clarify that the two generally opposing forces are independent of any pulling force exerted upon said fish hook apparatus. Thus, the Applicants’ device does not require any cooperation between the fisherperson and the fish. The Applicants’ device requires no pulling of the fishing line by either the fish or the fisherperson.

Applicants have further amended Claims 1, 15, and 20 to clearly distinguish the Applicants’ unique offset/catch from the prior art hooks.

Therefore, Applicants respectfully submit that the rejections for Claims 1-6, 9-15, and 18-19 have been overcome and that these claims now stand in formal condition for allowance.

Conclusion

Applicants respectfully ask that this amendment be entered for purposes of appeal. However, in light of the above discussion and amendments, Applicants respectfully submit that the application now stands in formal condition for allowance and respectfully ask for this application be advanced to issue. The Examiner is respectfully invited to call the Applicants' representative, Taras P. Bemko (713-355-4200) to discuss any matters, that may arise, where such discussion may resolve such matters and place this application in condition for allowance. Although Applicants believe that no additional fees are required, the Commissioner is hereby respectfully authorized to deduct such fees, as might be required, from Deposit Account Number 13-2166.

Respectfully submitted,



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